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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/378,108	08/20/1999	OLAF DICKER	99P7740US	8733

7590 07/31/2003
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN, NJ 08830

EXAMINER

FERRIS, DERRICK W

ART UNIT	PAPER NUMBER
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2663

DATE MAILED: 07/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/378,108

Applicant(s)

DICKER ET AL.

Examiner

Derrick W. Ferris

Art Unit

2663

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 July 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☒ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

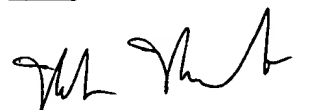
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-22.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


MELVIN MARCELO
PRIMARY EXAMINER

Continuation of 2. NOTE: First examiner notes applicant fails to provide support for the new claim limitation "remove any poor quality frequency set from the plurality of frequency sets" for the amendment after final. Examiner notes limited support at least on page 7, lines 22-23 of applicant's specification. Examiner also notes there may be a written description/enablement problem with respect to selecting parameters that minimize the loss of information over each of the individual channels and removing any poor quality frequency sets from the plurality of frequency sets since page 10, lines 26-29 disclose selecting another channel and not another set of frequencies or frequency subset (i.e., in step 60 either a frequency is changed for YES or a next channel is chosen for NO where for either case a new frequency set is not necessarily chosen). Second, further reconsideration and/or search are required since the new limitation is introduced after the rejection was made final and thus requires additional consideration. Third, examiner notes no clear connection in the claims between removing a frequency set due to poor quality and choosing/selection a frequency from the (remaining) frequency sets (i.e., applicant still recites selecting a frequency from each frequency set and not necessary the frequency sets left remaining from the plurality of frequency sets). As such, examiner notes no significance by adding the new claim limitation and thus notes the claims still stand rejected. Examiner recommends rewriting the claims to clearly recite what applicant attempts to argue. .